

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1091**

Chapter 4, Laws of 2011

62nd Legislature  
2011 Regular Session

UNEMPLOYMENT INSURANCE

EFFECTIVE DATE: February 11, 2011 - Except sections 7-15, which are contingent.

Passed by the House February 9, 2011  
Yeas 98 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate February 11, 2011  
Yeas 41 Nays 4

BRAD OWEN

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**President of the Senate**

Approved February 11, 2011, 4:15 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1091** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

February 14, 2011

**Secretary of State  
State of Washington**



1 amount established under RCW 50.20.120 plus an additional temporary  
2 benefit increase of twenty-five dollars. The weekly benefit amount  
3 under this section:

4 (a) Is payable for all weeks of regular, extended, emergency,  
5 supplemental, or additional benefits on that claim;

6 (b) Shall increase the maximum benefits payable to the individual  
7 under RCW 50.20.120(1) by a corresponding dollar amount; and

8 (c) Shall increase the maximum amount payable weekly and the  
9 minimum amount payable weekly, irrespective of the provisions of RCW  
10 50.20.120(3).

11 (2) Payment of benefits to individuals whose weekly benefit amounts  
12 are increased under this section shall be subject to the same terms and  
13 conditions under this title that apply to the payment of benefits to  
14 individuals whose benefit amounts are established under RCW 50.20.120.

15 (3) The department must calculate the total amount of temporary  
16 benefit increases paid under subsection (1) of this section.

17 (a) In calculating the total amount of temporary benefit increases,  
18 weeks of emergency unemployment compensation and extended benefits  
19 shall not be considered.

20 (b) Except as provided for in (c) of this subsection, when the  
21 total amount of temporary benefit increases for all weeks equals sixty-  
22 eight million dollars, the temporary benefit increase under subsection  
23 (1) of this section may not be paid for any additional weeks. An  
24 individual's maximum benefits payable, maximum amount payable weekly,  
25 or the minimum amount payable weekly must be adjusted accordingly.

26 (c) An individual receiving emergency unemployment compensation or  
27 extended benefits under this section shall continue to receive the  
28 temporary benefit increase for all weeks of emergency unemployment  
29 compensation or extended benefits.

30 **Sec. 2.** RCW 50.20.120 and 2009 c 3 s 3 are each amended to read as  
31 follows:

32 Except as provided in RCW 50.20.1201 and section 1 of this act,  
33 benefits shall be payable as provided in this section.

34 (1) For claims with an effective date on or after April 4, 2004,  
35 benefits shall be payable to any eligible individual during the  
36 individual's benefit year in a maximum amount equal to the lesser of

1 twenty-six times the weekly benefit amount, as determined in subsection  
2 (2) of this section, or one-third of the individual's base year wages  
3 under this title.

4 (2) For claims with an effective date on or after April 24, 2005,  
5 an individual's weekly benefit amount shall be an amount equal to three  
6 and eighty-five one-hundredths percent of the average quarterly wages  
7 of the individual's total wages during the two quarters of the  
8 individual's base year in which such total wages were highest.

9 (3) The maximum and minimum amounts payable weekly shall be  
10 determined as of each June 30th to apply to benefit years beginning in  
11 the twelve-month period immediately following such June 30th.

12 (a) The maximum amount payable weekly shall be either four hundred  
13 ninety-six dollars or sixty-three percent of the "average weekly wage"  
14 for the calendar year preceding such June 30th, whichever is greater.

15 (b) The minimum amount payable weekly shall be fifteen percent of  
16 the "average weekly wage" for the calendar year preceding such June  
17 30th.

18 (4) If any weekly benefit, maximum benefit, or minimum benefit  
19 amount computed herein is not a multiple of one dollar, it shall be  
20 reduced to the next lower multiple of one dollar.

21 **Sec. 3.** RCW 50.29.021 and 2010 c 25 s 1 are each amended to read  
22 as follows:

23 (1) This section applies to benefits charged to the experience  
24 rating accounts of employers for claims that have an effective date on  
25 or after January 4, 2004.

26 (2)(a) An experience rating account shall be established and  
27 maintained for each employer, except employers as described in RCW  
28 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
29 payments in lieu of contributions, taxable local government employers  
30 as described in RCW 50.44.035, and those employers who are required to  
31 make payments in lieu of contributions, based on existing records of  
32 the employment security department.

33 (b) Benefits paid to an eligible individual shall be charged to the  
34 experience rating accounts of each of such individual's employers  
35 during the individual's base year in the same ratio that the wages paid  
36 by each employer to the individual during the base year bear to the

1 wages paid by all employers to that individual during that base year,  
2 except as otherwise provided in this section.

3 (c) When the eligible individual's separating employer is a covered  
4 contribution paying base year employer, benefits paid to the eligible  
5 individual shall be charged to the experience rating account of only  
6 the individual's separating employer if the individual qualifies for  
7 benefits under:

8 (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became  
9 unemployed after having worked and earned wages in the bona fide work;  
10 or

11 (ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through  
12 (x).

13 (3) The legislature finds that certain benefit payments, in whole  
14 or in part, should not be charged to the experience rating accounts of  
15 employers except those employers described in RCW 50.44.010, 50.44.030,  
16 and 50.50.030 who have properly elected to make payments in lieu of  
17 contributions, taxable local government employers described in RCW  
18 50.44.035, and those employers who are required to make payments in  
19 lieu of contributions, as follows:

20 (a) Benefits paid to any individual later determined to be  
21 ineligible shall not be charged to the experience rating account of any  
22 contribution paying employer. However, when a benefit claim becomes  
23 invalid due to an amendment or adjustment of a report where the  
24 employer failed to report or inaccurately reported hours worked or  
25 remuneration paid, or both, all benefits paid will be charged to the  
26 experience rating account of the contribution paying employer or  
27 employers that originally filed the incomplete or inaccurate report or  
28 reports. An employer who reimburses the trust fund for benefits paid  
29 to workers and who fails to report or inaccurately reported hours  
30 worked or remuneration paid, or both, shall reimburse the trust fund  
31 for all benefits paid that are based on the originally filed incomplete  
32 or inaccurate report or reports.

33 (b) Benefits paid to an individual filing under the provisions of  
34 chapter 50.06 RCW shall not be charged to the experience rating account  
35 of any contribution paying employer only if:

36 (i) The individual files under RCW 50.06.020(1) after receiving  
37 crime victims' compensation for a disability resulting from a nonwork-  
38 related occurrence; or

1 (ii) The individual files under RCW 50.06.020(2).

2 (c) Benefits paid which represent the state's share of benefits  
3 payable as extended benefits defined under RCW 50.22.010(6) shall not  
4 be charged to the experience rating account of any contribution paying  
5 employer.

6 (d) In the case of individuals who requalify for benefits under RCW  
7 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
8 the disqualifying separation shall not be charged to the experience  
9 rating account of the contribution paying employer from whom that  
10 separation took place.

11 (e) Benefits paid to an individual who qualifies for benefits under  
12 RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as  
13 applicable, shall not be charged to the experience rating account of  
14 any contribution paying employer.

15 (f) With respect to claims with an effective date on or after the  
16 first Sunday following April 22, 2005, benefits paid that exceed the  
17 benefits that would have been paid if the weekly benefit amount for the  
18 claim had been determined as one percent of the total wages paid in the  
19 individual's base year shall not be charged to the experience rating  
20 account of any contribution paying employer. This subsection (3)(f)  
21 does not apply to the calculation of contribution rates under RCW  
22 50.29.025 for rate year 2010 and thereafter.

23 (g) The forty-five dollar increase paid as part of an individual's  
24 weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five  
25 dollar increase paid as part of an individual's weekly benefit amount  
26 as provided in section 1 of this act shall not be charged to the  
27 experience rating account of any contribution paying employer.

28 (h) With respect to claims where the minimum amount payable weekly  
29 is increased to one hundred fifty-five dollars pursuant to RCW  
30 50.20.1201(3), benefits paid that exceed the benefits that would have  
31 been paid if the minimum amount payable weekly had been calculated  
32 pursuant to RCW 50.20.120 shall not be charged to the experience rating  
33 account of any contribution paying employer.

34 (i) Training benefits paid to an individual under RCW 50.22.155  
35 shall not be charged to the experience rating account of any  
36 contribution paying employer.

37 (4)(a) A contribution paying base year employer, not otherwise

1 eligible for relief of charges for benefits under this section, may  
2 receive such relief if the benefit charges result from payment to an  
3 individual who:

4 (i) Last left the employ of such employer voluntarily for reasons  
5 not attributable to the employer;

6 (ii) Was discharged for misconduct or gross misconduct connected  
7 with his or her work not a result of inability to meet the minimum job  
8 requirements;

9 (iii) Is unemployed as a result of closure or severe curtailment of  
10 operation at the employer's plant, building, worksite, or other  
11 facility. This closure must be for reasons directly attributable to a  
12 catastrophic occurrence such as fire, flood, or other natural disaster;

13 (iv) Continues to be employed on a regularly scheduled permanent  
14 part-time basis by a base year employer and who at some time during the  
15 base year was concurrently employed and subsequently separated from at  
16 least one other base year employer. Benefit charge relief ceases when  
17 the employment relationship between the employer requesting relief and  
18 the claimant is terminated. This subsection does not apply to shared  
19 work employers under chapter 50.06 RCW; or

20 (v) Was hired to replace an employee who is a member of the  
21 military reserves or National Guard and was called to federal active  
22 military service by the president of the United States and is  
23 subsequently laid off when that employee is reemployed by their  
24 employer upon release from active duty within the time provided for  
25 reemployment in RCW 73.16.035.

26 (b) The employer requesting relief of charges under this subsection  
27 must request relief in writing within thirty days following mailing to  
28 the last known address of the notification of the valid initial  
29 determination of such claim, stating the date and reason for the  
30 separation or the circumstances of continued employment. The  
31 commissioner, upon investigation of the request, shall determine  
32 whether relief should be granted.

33 **Sec. 4.** RCW 50.16.030 and 2006 c 13 s 7 are each amended to read  
34 as follows:

35 (1)(a) Except as provided in (b) and (c) of this subsection, moneys  
36 shall be requisitioned from this state's account in the unemployment  
37 trust fund solely for the payment of benefits and repayment of loans

1 from the federal government to guarantee solvency of the unemployment  
2 compensation fund in accordance with regulations prescribed by the  
3 commissioner, except that money credited to this state's account  
4 pursuant to section 903 of the social security act, as amended, shall  
5 be used exclusively as provided in (~~RCW 50.16.030(5)~~) subsection (5)  
6 of this section. The commissioner shall from time to time requisition  
7 from the unemployment trust fund such amounts, not exceeding the  
8 amounts standing to its account therein, as he or she deems necessary  
9 for the payment of benefits for a reasonable future period. Upon  
10 receipt thereof the treasurer shall deposit such moneys in the benefit  
11 account and shall issue his or her warrants for the payment of benefits  
12 solely from such benefits account.

13 (b) During fiscal year 2006, moneys for the payment of regular  
14 benefits as defined in RCW 50.22.010 shall be requisitioned (~~during~~  
15 fiscal year 2006)) in the following order:

16 (i) First, from the moneys credited to this state's account in the  
17 unemployment trust fund pursuant to section 903 of the social security  
18 act, as amended in section 209 of the temporary extended unemployment  
19 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to  
20 the amount of benefits charged that exceed the contributions paid in  
21 the four consecutive calendar quarters ending on June 30, 2006, because  
22 the social cost factor contributions that employers are subject to  
23 under RCW 50.29.025(2)(b)(ii)(B) are less than the social cost factor  
24 contributions that these employers would have been subject to if RCW  
25 50.29.025(2)(b)(ii)(A) had applied to these employers; and

26 (ii) Second, after the requisitioning required under (b)(i) of this  
27 subsection, from all other moneys credited to this state's account in  
28 the unemployment trust fund.

29 (c) During fiscal years 2012 and 2013, if moneys are credited to  
30 this state's account in the unemployment trust fund pursuant to section  
31 903(f)(3) of the social security act, as amended in section 2003 of the  
32 American recovery and reinvestment act of 2009 (42 U.S.C. Sec.  
33 1103(f)(3)), moneys for the payment of regular benefits as defined in  
34 RCW 50.22.010 shall be requisitioned in the following order:

35 (i) First, from the moneys credited to this state's account in the  
36 unemployment trust fund pursuant to section 903 of the social security  
37 act, as amended in section 2003 of the American recovery and  
38 reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)), a total amount

1 during the two-year period consisting of fiscal years 2012 and 2013  
2 that is equal to the total amount of temporary benefit increases under  
3 section 1 of this act. This subsection shall not be construed as  
4 requiring that the total amount be requisitioned in each of these  
5 fiscal years; and

6 (ii) Second, after the requisitioning required under (c)(i) of this  
7 subsection, from all other moneys credited to this state's account in  
8 the unemployment trust fund.

9 (2) Expenditures of such moneys in the benefit account and refunds  
10 from the clearing account shall not be subject to any provisions of law  
11 requiring specific appropriations or other formal release by state  
12 officers of money in their custody, and RCW 43.01.050, as amended,  
13 shall not apply. All warrants issued by the treasurer for the payment  
14 of benefits and refunds shall bear the signature of the treasurer and  
15 the countersignature of the commissioner, or his or her duly authorized  
16 agent for that purpose.

17 (3) Any balance of moneys requisitioned from the unemployment trust  
18 fund which remains unclaimed or unpaid in the benefit account after the  
19 expiration of the period for which sums were requisitioned shall either  
20 be deducted from estimates for, and may be utilized for the payment of,  
21 benefits during succeeding periods, or in the discretion of the  
22 commissioner, shall be redeposited with the secretary of the treasury  
23 of the United States of America to the credit of this state's account  
24 in the unemployment trust fund.

25 (4) Money credited to the account of this state in the unemployment  
26 trust fund by the secretary of the treasury of the United States of  
27 America pursuant to section 903 of the social security act, as amended,  
28 may be requisitioned and used for the payment of expenses incurred for  
29 the administration of this title pursuant to a specific appropriation  
30 by the legislature, provided that the expenses are incurred and the  
31 money is requisitioned after the enactment of an appropriation law  
32 which:

33 (a) Specifies the purposes for which such money is appropriated and  
34 the amounts appropriated therefor;

35 (b) Limits the period within which such money may be obligated to  
36 a period ending not more than two years after the date of the enactment  
37 of the appropriation law; and

1 (c) Limits the amount which may be obligated during a twelve-month  
2 period beginning on July 1st and ending on the next June 30th to an  
3 amount which does not exceed the amount by which (i) the aggregate of  
4 the amounts credited to the account of this state pursuant to section  
5 903 of the social security act, as amended, during the same twelve-  
6 month period and the thirty-four preceding twelve-month periods,  
7 exceeds (ii) the aggregate of the amounts obligated pursuant to ((RCW  
8 ~~50.16.030 (4), (5) and~~) subsections (4) through (6) of this section  
9 and charged against the amounts credited to the account of this state  
10 during any of such thirty-five twelve-month periods. For the purposes  
11 of ((RCW ~~50.16.030 (4), (5) and~~) subsections (4) through (6) of this  
12 section, amounts obligated during any such twelve-month period shall be  
13 charged against equivalent amounts which were first credited and which  
14 are not already so charged; except that no amount obligated for  
15 administration during any such twelve-month period may be charged  
16 against any amount credited during such a twelve-month period earlier  
17 than the thirty-fourth twelve-month period preceding such period:  
18 PROVIDED, That any amount credited to this state's account under  
19 section 903 of the social security act, as amended, which has been  
20 appropriated for expenses of administration, whether or not withdrawn  
21 from the trust fund shall be excluded from the unemployment  
22 compensation fund balance for the purpose of experience rating credit  
23 determination.

24 (5) Money credited to the account of this state pursuant to section  
25 903 of the social security act, as amended, may not be withdrawn or  
26 used except for the payment of benefits and for the payment of expenses  
27 of administration and of public employment offices pursuant to ((RCW  
28 ~~50.16.030 (4), (5) and~~) subsections (4) through (6) of this section.  
29 However, moneys credited because of excess amounts in federal accounts  
30 in federal fiscal years 1999, 2000, and 2001 shall be used solely for  
31 the administration of the unemployment compensation program and are not  
32 subject to appropriation by the legislature for any other purpose.

33 (6) Money requisitioned as provided in ((RCW ~~50.16.030 (4), (5)~~  
34 ~~and~~) subsections (4) through (6) of this section for the payment of  
35 expenses of administration shall be deposited in the unemployment  
36 compensation fund, but until expended, shall remain a part of the  
37 unemployment compensation fund. The commissioner shall maintain a  
38 separate record of the deposit, obligation, expenditure and return of

1 funds so deposited. Any money so deposited which either will not be  
2 obligated within the period specified by the appropriation law or  
3 remains unobligated at the end of the period, and any money which has  
4 been obligated within the period but will not be expended, shall be  
5 returned promptly to the account of this state in the unemployment  
6 trust fund.

7 **PART II**  
8 **Extended Benefits**

9 **Sec. 5.** RCW 50.22.010 and 2009 c 493 s 4 are each amended to read  
10 as follows:

11 As used in this chapter, unless the context clearly indicates  
12 otherwise:

13 (1) "Extended benefit period" means a period which:

14 (a) Begins with the third week after a week for which there is an  
15 "on" indicator; and

16 (b) Ends with the third week after the first week for which there  
17 is an "off" indicator: PROVIDED, That no extended benefit period shall  
18 last for a period of less than thirteen consecutive weeks, and further  
19 that no extended benefit period may begin by reason of an "on"  
20 indicator before the fourteenth week after the close of a prior  
21 extended benefit period which was in effect with respect to this state.

22 (2) There is an "on" indicator for this state for a week if the  
23 commissioner determines, in accordance with the regulations of the  
24 United States secretary of labor, that for the period consisting of  
25 such week and the immediately preceding twelve weeks:

26 (a) The rate of insured unemployment, not seasonally adjusted,  
27 equaled or exceeded one hundred twenty percent of the average of such  
28 rates for the corresponding thirteen-week period ending in each of the  
29 preceding two calendar years and equaled or exceeded five percent; or

30 (b) For benefits for weeks of unemployment beginning after March 6,  
31 1993:

32 (i) The average rate of total unemployment, seasonally adjusted, as  
33 determined by the United States secretary of labor, for the period  
34 consisting of the most recent three months for which data for all  
35 states are published before the close of the week equals or exceeds six  
36 and one-half percent; and

1 (ii) The average rate of total unemployment in the state,  
2 seasonally adjusted, as determined by the United States secretary of  
3 labor, for the three-month period referred to in (b)(i) of this  
4 subsection, equals or exceeds one hundred ten percent of the average  
5 for either or both of the corresponding three-month periods ending in  
6 the two preceding calendar years.

7 (c) This subsection applies as provided under the tax relief,  
8 unemployment insurance reauthorization, and job creation act of 2010  
9 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent  
10 date as may be provided by the department by rule, consistent with the  
11 purposes of this subsection:

12 (i) The average rate of insured unemployment, not seasonally  
13 adjusted, equaled or exceeded one hundred twenty percent of the average  
14 of such rates for the corresponding thirteen-week period ending in all  
15 of the preceding three calendar years and equaled or exceeded five  
16 percent; or

17 (ii) The average rate of total unemployment, seasonally adjusted,  
18 as determined by the United States secretary of labor, for the period  
19 consisting of the most recent three months for which data for all  
20 states are published before the close of the week equals or exceeds six  
21 and one-half percent; and

22 (iii) The average rate of total unemployment in the state,  
23 seasonally adjusted, as determined by the United States secretary of  
24 labor, for the three-month period referred to in (c)(ii) of this  
25 subsection, equals or exceeds one hundred ten percent of the average  
26 for any of the corresponding three-month periods ending in the three  
27 preceding calendar years.

28 (3) "High unemployment period" means any period of unemployment  
29 beginning after March 6, 1993, during which an extended benefit period  
30 would be in effect if:

31 (a) The average rate of total unemployment, seasonally adjusted, as  
32 determined by the United States secretary of labor, for the period  
33 consisting of the most recent three months for which data for all  
34 states are published before the close of the week equals or exceeds  
35 eight percent; and

36 (b) The average rate of total unemployment in the state, seasonally  
37 adjusted, as determined by the United States secretary of labor, for  
38 the three-month period referred to in (a) of this subsection, equals or

1 exceeds one hundred ten percent of the average for either or both of  
2 the corresponding three-month periods ending in the two preceding  
3 calendar years.

4 (c) This subsection applies as provided under the tax relief,  
5 unemployment insurance reauthorization, and job creation act of 2010  
6 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent  
7 date as may be provided by the department by rule, consistent with the  
8 purposes of this subsection.

9 (i) The average rate of total unemployment, seasonally adjusted, as  
10 determined by the United States secretary of labor, for the period  
11 consisting of the most recent three months for which data for all  
12 states are published before the close of the week equals or exceeds  
13 eight percent; and

14 (ii) The average rate of total unemployment in the state,  
15 seasonally adjusted, as determined by the United States secretary of  
16 labor, for the three-month period referred to in (a) of this  
17 subsection, equals or exceeds one hundred ten percent of the average  
18 for any of the corresponding three-month periods ending in the three  
19 preceding calendar years.

20 (4) There is an "off" indicator for this state for a week only if,  
21 for the period consisting of such week and immediately preceding twelve  
22 weeks, none of the options specified in subsection (2) or (3) of this  
23 section result in an "on" indicator.

24 (5) "Regular benefits" means benefits payable to an individual  
25 under this title or under any state law (including benefits payable to  
26 federal civilian employees and to ex-servicemen pursuant to 5 U.S.C.  
27 chapter 85) other than extended benefits or additional benefits.

28 (6) "Extended benefits" means benefits payable for weeks of  
29 unemployment beginning in an extended benefit period to an individual  
30 under this title or under any state law (including benefits payable to  
31 federal civilian employees and to ex-servicemen pursuant to 5 U.S.C.  
32 chapter 85) other than regular or additional benefits.

33 (7) "Additional benefits" are benefits totally financed by the  
34 state and payable under this title to exhaustees by reason of  
35 conditions of high unemployment or by reason of other special factors.

36 (8) "Eligibility period" of an individual means:

37 (a) The period consisting of the weeks in his or her benefit year

1 which begin in an extended benefit period that is in effect in this  
2 state and, if his or her benefit year ends within such extended benefit  
3 period, any weeks thereafter which begin in such period; or

4 (b) For an individual who is eligible for emergency unemployment  
5 compensation during the extended benefit period beginning February 15,  
6 2009, the period consisting of the week ending February 28, 2009,  
7 (~~through the week ending May 29, 2010~~) and applies as provided under  
8 the tax relief, unemployment insurance reauthorization, and job  
9 creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010,  
10 or such subsequent date as may be provided by the department by rule,  
11 consistent with the purposes of this subsection.

12 (9) "Additional benefit eligibility period" of an individual means  
13 the period consisting of the weeks in his or her benefit year which  
14 begin in an additional benefit period that is in effect and, if his or  
15 her benefit year ends within such additional benefit period, any weeks  
16 thereafter which begin in such period.

17 (10) "Exhaustee" means an individual who, with respect to any week  
18 of unemployment in his or her eligibility period:

19 (a) Has received, prior to such week, all of the regular benefits  
20 that were payable to him or her under this title or any other state law  
21 (including dependents' allowances and regular benefits payable to  
22 federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85)  
23 in his or her current benefit year that includes such week; or

24 (b) Has received, prior to such week, all of the regular benefits  
25 that were available to him or her under this title or any other state  
26 law (including dependents' allowances and regular benefits available to  
27 federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85)  
28 in his or her current benefit year that includes such week, after the  
29 cancellation of some or all of his or her wage credits or the total or  
30 partial reduction of his or her rights to regular benefits: PROVIDED,  
31 That, for the purposes of (a) and (b), an individual shall be deemed to  
32 have received in his or her current benefit year all of the regular  
33 benefits that were payable to him or her, or available to him or her,  
34 as the case may be, even though:

35 (i) As a result of a pending appeal with respect to wages or  
36 employment, or both, that were not included in the original monetary  
37 determination with respect to his or her current benefit year, he or

1 she may subsequently be determined to be entitled to more regular  
2 benefits; or

3 (ii) By reason of the seasonal provisions of another state law, he  
4 or she is not entitled to regular benefits with respect to such week of  
5 unemployment (although he or she may be entitled to regular benefits  
6 with respect to future weeks of unemployment in the next season, as the  
7 case may be, in his or her current benefit year), and he or she is  
8 otherwise an exhaustee within the meaning of this section with respect  
9 to his or her right to regular benefits under such state law seasonal  
10 provisions during the season or off season in which that week of  
11 unemployment occurs; or

12 (iii) Having established a benefit year, no regular benefits are  
13 payable to him or her during such year because his or her wage credits  
14 were canceled or his or her right to regular benefits was totally  
15 reduced as the result of the application of a disqualification; or

16 (c) His or her benefit year having ended prior to such week, he or  
17 she has insufficient wages or employment, or both, on the basis of  
18 which he or she could establish in any state a new benefit year that  
19 would include such week, or having established a new benefit year that  
20 includes such week, he or she is precluded from receiving regular  
21 benefits by reason of the provision in RCW 50.04.030 which meets the  
22 requirement of section 3304(a)(7) of the Federal Unemployment Tax Act,  
23 or the similar provision in any other state law; and

24 (d)(i) Has no right for such week to unemployment benefits or  
25 allowances, as the case may be, under the Railroad Unemployment  
26 Insurance Act, the Trade Expansion Act of 1962, and such other federal  
27 laws as are specified in regulations issued by the United States  
28 secretary of labor; and

29 (ii) Has not received and is not seeking for such week unemployment  
30 benefits under the unemployment compensation law of Canada, unless the  
31 appropriate agency finally determines that he or she is not entitled to  
32 unemployment benefits under such law for such week.

33 (11) "State law" means the unemployment insurance law of any state,  
34 approved by the United States secretary of labor under section 3304 of  
35 the internal revenue code of 1954.

36 **Sec. 6.** RCW 50.22.155 and 2009 c 3 s 4 are each amended to read as  
37 follows:

1 (1) This section applies to claims with an effective date on or  
2 after April 5, 2009.

3 (2) Subject to availability of funds, training benefits are  
4 available for an individual who is eligible for or has exhausted  
5 entitlement to unemployment compensation benefits when:

6 (a) The individual is a dislocated worker as defined in RCW  
7 50.04.075 and, after assessment of the individual's labor market,  
8 occupation, or skills, is determined to need job-related training to  
9 find suitable employment in the individual's labor market. The  
10 assessment of demand for the individual's occupation or skill sets must  
11 be substantially based on declining occupation or skill sets and high-  
12 demand occupations identified in local labor market areas by the local  
13 workforce development councils in cooperation with the employment  
14 security department and its labor market information division; or

15 (b) For claims with an effective date on or after September 7,  
16 2009, the individual:

17 (i) Earned an average hourly wage in the individual's base year  
18 that is less than one hundred thirty percent of the state minimum  
19 wage((7)) and, after assessment, it is determined that the individual's  
20 earning potential will be enhanced through vocational training. The  
21 individual's average hourly wage is calculated by dividing the total  
22 wages paid by the total hours worked in the individual's base year;

23 (ii) Served in the United States military or the Washington  
24 national guard during the twelve-month period prior to the application  
25 date, was honorably discharged from military service or the Washington  
26 national guard and, after assessment, is determined to need job-related  
27 training to find suitable employment in the individual's labor market;

28 (iii) Is currently serving in the Washington national guard and,  
29 after assessment, is determined to need job-related training to find  
30 suitable employment in the individual's labor market; or

31 (iv) Is disabled due to an injury or illness and, after assessment,  
32 is determined to be unable to return to his or her previous occupation  
33 and to need job-related training to find suitable employment in the  
34 individual's labor market.

35 (3)(a) The individual must develop an individual training program  
36 that is submitted to the commissioner for approval within ninety days  
37 after the individual is notified by the employment security department  
38 of the requirements of this section;

1 (b) The individual must enter the approved training program by one  
2 hundred twenty days after the date of the notification, unless the  
3 employment security department determines that the training is not  
4 available during the one hundred twenty days, in which case the  
5 individual enters training as soon as it is available;

6 (c) The department may waive the deadlines established under this  
7 subsection for reasons deemed by the commissioner to be good cause.

8 (4) The individual must be enrolled in training approved under this  
9 section on a full-time basis as determined by the educational  
10 institution, except that less than full-time training may be approved  
11 when the individual has a physical, mental, or emotional disability  
12 that precludes enrollment on a full-time basis.

13 (5) The individual must make satisfactory progress in the training  
14 as defined by the commissioner and certified by the educational  
15 institution.

16 (6) An individual is not eligible for training benefits under this  
17 section if he or she:

18 (a) Is a standby claimant who expects recall to his or her regular  
19 employer; or

20 (b) Has a definite recall date that is within six months of the  
21 date he or she is laid off.

22 (7) The following definitions apply throughout this section unless  
23 the context clearly requires otherwise.

24 (a) "Educational institution" means an institution of higher  
25 education as defined in RCW 28B.10.016 or an educational institution as  
26 defined in RCW 28C.04.410, including equivalent educational  
27 institutions in other states.

28 (b) "High-demand occupation" means an occupation with a substantial  
29 number of current or projected employment opportunities.

30 (c) "Training benefits" means additional benefits paid under this  
31 section.

32 (d) "Training program" means:

33 (i) An education program determined to be necessary as a  
34 prerequisite to vocational training after counseling at the educational  
35 institution in which the individual enrolls under his or her approved  
36 training program; or

37 (ii) A vocational training program at an educational institution  
38 that:

1 (A) Is targeted to training for a high-demand occupation;

2 (B) Is likely to enhance the individual's marketable skills and  
3 earning power; and

4 (C) Meets the criteria for performance developed by the workforce  
5 training and education coordinating board for the purpose of  
6 determining those training programs eligible for funding under Title I  
7 of P.L. 105-220.

8 "Training program" does not include any course of education  
9 primarily intended to meet the requirements of a baccalaureate or  
10 higher degree, unless the training meets specific requirements for  
11 certification, licensing, or for specific skills necessary for the  
12 occupation.

13 (8) Benefits shall be paid as follows:

14 (a) The total training benefit amount shall be fifty-two times the  
15 individual's weekly benefit amount, reduced by the total amount of  
16 regular benefits and extended benefits paid, or deemed paid, with  
17 respect to the benefit year.

18 (b) The weekly benefit amount shall be the same as the regular  
19 weekly amount payable during the applicable benefit year and shall be  
20 paid under the same terms and conditions as regular benefits.

21 (c) Training benefits shall be paid before any extended benefits  
22 but not before any similar federally funded program. Effective July 3,  
23 2011, training benefits shall be paid after any federally funded  
24 program.

25 (d) Training benefits are not payable for weeks more than two years  
26 beyond the end of the benefit year of the regular claim. However,  
27 training benefits are not payable for weeks more than three years  
28 beyond the end of the benefit year of the regular claim when  
29 individuals are eligible for benefits in accordance with RCW 50.22.010  
30 (2)(c) or (3)(c).

31 (9) The requirement under RCW 50.22.010(10) relating to exhausting  
32 regular benefits does not apply to an individual otherwise eligible for  
33 training benefits under this section when the individual's benefit year  
34 ends before his or her training benefits are exhausted and the  
35 individual is eligible for a new benefit year. These individuals will  
36 have the option of remaining on the original claim or filing a new  
37 claim.

1 (10) Individuals who receive training benefits under RCW 50.22.150  
2 or this section are not eligible for training benefits under this  
3 section for five years from the last receipt of training benefits.

4 (11) An individual eligible to receive a trade readjustment  
5 allowance under chapter 2, Title II of the trade act of 1974, as  
6 amended, shall not be eligible to receive benefits under this section  
7 for each week the individual receives such trade readjustment  
8 allowance.

9 (12) An individual eligible to receive emergency unemployment  
10 compensation under any federal law shall not be eligible to receive  
11 benefits under this section for each week the individual receives such  
12 compensation.

13 (13) All base year employers are interested parties to the approval  
14 of training and the granting of training benefits.

15 (14) Each local workforce development council, in cooperation with  
16 the employment security department and its labor market information  
17 division, must identify occupations and skill sets that are declining  
18 and high-demand occupations and skill sets. Each local workforce  
19 development council shall update this information annually or more  
20 frequently if needed.

21 (15) The commissioner shall adopt rules as necessary to implement  
22 this section.

### 23 PART III

### 24 Training Benefits

25 **Sec. 7.** RCW 50.20.099 and 2000 c 2 s 10 are each amended to read  
26 as follows:

27 (1) To ensure that unemployment insurance benefits are paid in  
28 accordance with RCW 50.20.098, the employment security department shall  
29 verify that an individual is eligible to work in the United States  
30 before the individual receives training benefits under RCW 50.22.150 or  
31 50.22.155.

32 (2) By July 1, 2002, the employment security department shall:

33 (a) Develop and implement an effective method for determining,  
34 where appropriate, eligibility to work in the United States for  
35 individuals applying for unemployment benefits under this title;

1 (b) Review verification systems developed by federal agencies for  
2 verifying a person's eligibility to receive unemployment benefits under  
3 this title and evaluate the effectiveness of these systems for use in  
4 this state; and

5 (c) Report its initial findings to the legislature by September 1,  
6 2000, and its final report by July 1, 2002.

7 (3) Where federal law prohibits the conditioning of unemployment  
8 benefits on a verification of an individual's status as a qualified or  
9 authorized alien, the requirements of this section shall not apply.

10 **Sec. 8.** RCW 50.22.130 and 2009 c 353 s 3 are each amended to read  
11 as follows:

12 It is the intent of the legislature that a training benefits  
13 program be established to provide unemployment insurance benefits to  
14 unemployed individuals who participate in training programs necessary  
15 for their reemployment.

16 The legislature further intends that this program serve the  
17 following goals:

18 (1) Retraining should be available for those unemployed individuals  
19 whose skills are no longer in demand;

20 ~~((To be eligible for retraining, an individual must have a  
21 long term attachment to the labor force;~~

22 ~~(3))~~ Training must enhance the individual's marketable skills and  
23 earning power; and

24 ~~((4))~~ (3) Retraining must be targeted to high-demand occupations.

25 ~~((Individuals unemployed as a result of structural changes in the  
26 economy and technological advances rendering their skills obsolete must  
27 receive the highest priority for participation in this program. It is  
28 the further intent of the legislature that individuals for whom  
29 suitable employment is available are not eligible for additional  
30 benefits while participating in training.))~~

31 The legislature further intends that funding for this program be  
32 limited by a specified maximum amount each fiscal year.

33 **Sec. 9.** RCW 50.22.155 and 2009 c 3 s 4 are each amended to read as  
34 follows:

35 (1) ~~((This section applies))~~ With respect to claims with an  
36 effective date on or after April 5, 2009~~((-))~~, and before July 1, 2012:

1       ~~((2))~~ (a) Subject to availability of funds, training benefits are  
2 available for an individual who is eligible for or has exhausted  
3 entitlement to unemployment compensation benefits when:

4       ~~((a))~~ (i) The individual is a dislocated worker as defined in RCW  
5 50.04.075 and, after assessment of the individual's labor market,  
6 occupation, or skills, is determined to need job-related training to  
7 find suitable employment in the individual's labor market. The  
8 assessment of demand for the individual's occupation or skill sets must  
9 be substantially based on declining occupation or skill sets and high-  
10 demand occupations identified in local labor market areas by the local  
11 workforce development councils in cooperation with the employment  
12 security department and its labor market information division; or

13       ~~((b))~~ (ii) For claims with an effective date on or after  
14 September 7, 2009, the individual:

15       ~~((i))~~ (A) Earned an average hourly wage in the individual's base  
16 year that is less than one hundred thirty percent of the state minimum  
17 wage~~((7))~~ and, after assessment, it is determined that the individual's  
18 earning potential will be enhanced through vocational training. The  
19 individual's average hourly wage is calculated by dividing the total  
20 wages paid by the total hours worked in the individual's base year;

21       ~~((ii))~~ (B) Served in the United States military or the Washington  
22 national guard during the twelve-month period prior to the application  
23 date, was honorably discharged from military service or the Washington  
24 national guard and, after assessment, is determined to need job-related  
25 training to find suitable employment in the individual's labor market;

26       ~~((iii))~~ (C) Is currently serving in the Washington national guard  
27 and, after assessment, is determined to need job-related training to  
28 find suitable employment in the individual's labor market; or

29       ~~((iv))~~ (D) Is disabled due to an injury or illness and, after  
30 assessment, is determined to be unable to return to his or her previous  
31 occupation and to need job-related training to find suitable employment  
32 in the individual's labor market.

33       ~~((3)(a))~~ (b)(i) The individual must develop an individual  
34 training program that is submitted to the commissioner for approval  
35 within ninety days after the individual is notified by the employment  
36 security department of the requirements of this section;

37       ~~((b))~~ (ii) The individual must enter the approved training  
38 program by one hundred twenty days after the date of the notification,

1 unless the employment security department determines that the training  
2 is not available during the one hundred twenty days, in which case the  
3 individual enters training as soon as it is available;

4 ((+e)) (iii) The department may waive the deadlines established  
5 under this subsection for reasons deemed by the commissioner to be good  
6 cause.

7 ((+4)) (c) The individual must be enrolled in training approved  
8 under this section on a full-time basis as determined by the  
9 educational institution, except that less than full-time training may  
10 be approved when the individual has a physical, mental, or emotional  
11 disability that precludes enrollment on a full-time basis.

12 ((+5)) (d) The individual must make satisfactory progress in the  
13 training as defined by the commissioner and certified by the  
14 educational institution.

15 ((+6)) (e) An individual is not eligible for training benefits  
16 under this section if he or she:

17 ((+a)) (i) Is a standby claimant who expects recall to his or her  
18 regular employer; or

19 ((+b)) (ii) Has a definite recall date that is within six months  
20 of the date he or she is laid off.

21 ((+7)) (f) The following definitions apply throughout this  
22 ~~(section)~~ subsection (1) unless the context clearly requires  
23 otherwise.

24 ((+a)) (i) "Educational institution" means an institution of  
25 higher education as defined in RCW 28B.10.016 or an educational  
26 institution as defined in RCW 28C.04.410, including equivalent  
27 educational institutions in other states.

28 ((+b)) (ii) "High-demand occupation" means an occupation with a  
29 substantial number of current or projected employment opportunities.

30 ((+e)) (iii) "Training benefits" means additional benefits paid  
31 under this section.

32 ((+d)) (iv) "Training program" means:

33 ((+i)) (A) An education program determined to be necessary as a  
34 prerequisite to vocational training after counseling at the educational  
35 institution in which the individual enrolls under his or her approved  
36 training program; or

37 ((+ii)) (B) A vocational training program at an educational  
38 institution that:

1       ~~((A))~~ (I) Is targeted to training for a high-demand occupation;  
2       ~~((B))~~ (II) Is likely to enhance the individual's marketable  
3 skills and earning power; and

4       ~~((C))~~ (III) Meets the criteria for performance developed by the  
5 workforce training and education coordinating board for the purpose of  
6 determining those training programs eligible for funding under Title I  
7 of P.L. 105-220.

8       "Training program" does not include any course of education  
9 primarily intended to meet the requirements of a baccalaureate or  
10 higher degree, unless the training meets specific requirements for  
11 certification, licensing, or for specific skills necessary for the  
12 occupation.

13       ~~((8))~~ (g) Benefits shall be paid as follows:

14       ~~((a))~~ (i) The total training benefit amount shall be fifty-two  
15 times the individual's weekly benefit amount, reduced by the total  
16 amount of regular benefits and extended benefits paid, or deemed paid,  
17 with respect to the benefit year.

18       ~~((b))~~ (ii) The weekly benefit amount shall be the same as the  
19 regular weekly amount payable during the applicable benefit year and  
20 shall be paid under the same terms and conditions as regular benefits.

21       ~~((c))~~ (iii) Training benefits shall be paid before any extended  
22 benefits but not before any similar federally funded program.  
23 Effective July 3, 2011, training benefits shall be paid after any  
24 federally funded program.

25       ~~((d))~~ (iv) Training benefits are not payable for weeks more than  
26 two years beyond the end of the benefit year of the regular claim.  
27 However, training benefits are not payable for weeks more than three  
28 years beyond the end of the benefit year of the regular claim when  
29 individuals are eligible for benefits in accordance with RCW 50.22.010  
30 (2)(c) or (3)(c).

31       ~~((9))~~ (h) The requirement under RCW 50.22.010(10) relating to  
32 exhausting regular benefits does not apply to an individual otherwise  
33 eligible for training benefits under this section when the individual's  
34 benefit year ends before his or her training benefits are exhausted and  
35 the individual is eligible for a new benefit year. These individuals  
36 will have the option of remaining on the original claim or filing a new  
37 claim.

1       (~~(10)~~) (i) Individuals who receive training benefits under RCW  
2 50.22.150 or this section are not eligible for training benefits under  
3 this section for five years from the last receipt of training benefits.

4       (~~(11)~~) (j) An individual eligible to receive a trade readjustment  
5 allowance under chapter 2, Title II of the trade act of 1974, as  
6 amended, shall not be eligible to receive benefits under this section  
7 for each week the individual receives such trade readjustment  
8 allowance.

9       (~~(12)~~) (k) An individual eligible to receive emergency  
10 unemployment compensation under any federal law shall not be eligible  
11 to receive benefits under this section for each week the individual  
12 receives such compensation.

13       (~~(13)~~) (l) All base year employers are interested parties to the  
14 approval of training and the granting of training benefits.

15       (~~(14)~~) (m) Each local workforce development council, in  
16 cooperation with the employment security department and its labor  
17 market information division, must identify occupations and skill sets  
18 that are declining and high-demand occupations and skill sets. Each  
19 local workforce development council shall update this information  
20 annually or more frequently if needed.

21       (~~(15)~~) (2) With respect to claims with an effective date on or  
22 after July 1, 2012:

23       (a) Training benefits are available for an individual who is  
24 eligible for or has exhausted entitlement to unemployment compensation  
25 benefits when:

26       (i) The individual is a dislocated worker as defined in RCW  
27 50.04.075 and, after assessment of the individual's labor market,  
28 occupation, or skills, is determined to need job-related training to  
29 find suitable employment in the individual's labor market. The  
30 assessment of demand for the individual's occupation or skill sets must  
31 be substantially based on declining occupation or skill sets and high-  
32 demand occupations identified in local labor market areas by the local  
33 workforce development councils in cooperation with the employment  
34 security department and its labor market information division; or

35       (ii) Subject to the availability of funds as specified in RCW  
36 50.22.140, the individual:

37       (A) Earned an average hourly wage in the individual's base year  
38 that is less than one hundred thirty percent of the state minimum wage

1 and, after assessment, it is determined that the individual's earning  
2 potential will be enhanced through vocational training. The  
3 individual's average hourly wage is calculated by dividing the total  
4 wages paid by the total hours worked in the individual's base year;

5 (B) Served in the United States military or the Washington national  
6 guard during the twelve-month period prior to the application date, was  
7 honorably discharged from military service or the Washington national  
8 guard and, after assessment, is determined to need job-related training  
9 to find suitable employment in the individual's labor market;

10 (C) Is currently serving in the Washington national guard and,  
11 after assessment, is determined to need job-related training to find  
12 suitable employment in the individual's labor market; or

13 (D) Is disabled due to an injury or illness and, after assessment,  
14 is determined to be unable to return to his or her previous occupation  
15 and to need job-related training to find suitable employment in the  
16 individual's labor market.

17 (b)(i) Except for an individual eligible under (a)(i) of this  
18 subsection, the individual must develop an individual training plan  
19 that is submitted to the commissioner for approval within ninety days  
20 after the individual is notified by the employment security department  
21 of the requirements of this section;

22 (ii) Except for an individual eligible under (a)(i) of this  
23 subsection, the individual must enroll in the approved training program  
24 by one hundred twenty days after the date of the notification, unless  
25 the employment security department determines that the training is not  
26 available during the one hundred twenty days, in which case the  
27 individual enters training as soon as it is available;

28 (iii) An individual eligible under (a)(i) of this subsection must  
29 submit an individual training plan and enroll in the approved training  
30 program prior to the end of the individual's benefit year;

31 (iv) The department may waive the deadlines established under  
32 (b)(i) and (ii) of this subsection for reasons deemed by the  
33 commissioner to be good cause.

34 (c) Except for an individual eligible under (a)(i) of this  
35 subsection, the individual must be enrolled in training approved under  
36 this section on a full-time basis as determined by the educational  
37 institution, except that less than full-time training may be approved

1 when the individual has a physical, mental, or emotional disability  
2 that precludes enrollment on a full-time basis.

3 (d) The individual must make satisfactory progress in the training  
4 as defined by the commissioner and certified by the educational  
5 institution.

6 (e) An individual is not eligible for training benefits under this  
7 section if he or she:

8 (i) Is a standby claimant who expects recall to his or her regular  
9 employer; or

10 (ii) Has a definite recall date that is within six months of the  
11 date he or she is laid off.

12 (f) The following definitions apply throughout this subsection (2)  
13 unless the context clearly requires otherwise:

14 (i) "Educational institution" means an institution of higher  
15 education as defined in RCW 28B.10.016 or an educational institution as  
16 defined in RCW 28C.04.410, including equivalent educational  
17 institutions in other states.

18 (ii) "High-demand occupation" means an occupation with a  
19 substantial number of current or projected employment opportunities.

20 (iii) "Training benefits" means additional benefits paid under this  
21 section.

22 (iv) "Training program" means:

23 (A) An education program determined to be necessary as a  
24 prerequisite to vocational training after counseling at the educational  
25 institution in which the individual enrolls under his or her approved  
26 training program; or

27 (B) A vocational training program at an educational institution  
28 that:

29 (I) Is targeted to training for a high-demand occupation;

30 (II) Is likely to enhance the individual's marketable skills and  
31 earning power; and

32 (III) Meets the criteria for performance developed by the workforce  
33 training and education coordinating board for the purpose of  
34 determining those training programs eligible for funding under Title I  
35 of P.L. 105-220.

36 "Training program" does not include any course of education  
37 primarily intended to meet the requirements of a baccalaureate or

1 higher degree, unless the training meets specific requirements for  
2 certification, licensing, or for specific skills necessary for the  
3 occupation.

4 (g) Available benefits shall be paid as follows:

5 (i) The total training benefit amount shall be fifty-two times the  
6 individual's weekly benefit amount, reduced by the total amount of  
7 regular benefits paid, or deemed paid, with respect to the benefit  
8 year.

9 (ii) The weekly benefit amount shall be the same as the regular  
10 weekly amount payable during the applicable benefit year and shall be  
11 paid under the same terms and conditions as regular benefits.

12 (iii) Training benefits shall be paid after any federally funded  
13 program.

14 (iv) Training benefits are not payable for weeks more than two  
15 years beyond the end of the benefit year of the regular claim.  
16 However, training benefits are not payable for weeks more than three  
17 years beyond the end of the benefit year of the regular claim when  
18 individuals are eligible for benefits in accordance with RCW 50.22.010  
19 (2)(c) or (3)(c).

20 (h) The requirement under RCW 50.22.010(10) relating to exhausting  
21 regular benefits does not apply to an individual otherwise eligible for  
22 training benefits under this section when the individual's benefit year  
23 ends before his or her training benefits are exhausted and the  
24 individual is eligible for a new benefit year. These individuals will  
25 have the option of remaining on the original claim or filing a new  
26 claim.

27 (i) Except for individuals eligible under (a)(i) of this  
28 subsection, individuals who receive training benefits under RCW  
29 50.22.150 or this section are not eligible for training benefits under  
30 this section for five years from the last receipt of training benefits.

31 (j) An individual eligible to receive a trade readjustment  
32 allowance under chapter 2, Title II of the trade act of 1974, as  
33 amended, shall not be eligible to receive benefits under this section  
34 for each week the individual receives such trade readjustment  
35 allowance.

36 (k) An individual eligible to receive emergency unemployment  
37 compensation under any federal law shall not be eligible to receive

1 benefits under this section for each week the individual receives such  
2 compensation.

3 (1) All base year employers are interested parties to the approval  
4 of training and the granting of training benefits.

5 (m) Each local workforce development council, in cooperation with  
6 the employment security department and its labor market information  
7 division, must identify occupations and skill sets that are declining  
8 and high-demand occupations and skill sets. Each local workforce  
9 development council shall update this information annually or more  
10 frequently if needed.

11 (3) The commissioner shall adopt rules as necessary to implement  
12 this section.

13 **Sec. 10.** RCW 50.22.140 and 2002 c 149 s 1 are each amended to read  
14 as follows:

15 (1) The employment security department is authorized to pay  
16 training benefits under RCW 50.22.150 and 50.22.155, but may not  
17 obligate expenditures beyond the limits specified in this section or as  
18 otherwise set by the legislature. ~~((For the fiscal year ending June~~  
19 ~~30, 2000, the commissioner may not obligate more than twenty million~~  
20 ~~dollars for training benefits. For the two fiscal years ending June~~  
21 ~~30, 2002, the commissioner may not obligate more than sixty million~~  
22 ~~dollars for training benefits.)) Any funds not obligated in one fiscal~~  
23 ~~year may be carried forward to the next fiscal year. ((For each fiscal~~  
24 ~~year beginning after June 30, 2002,)) The commissioner may not obligate~~  
25 ~~more than twenty million dollars annually in addition to any funds~~  
26 ~~carried forward from previous fiscal years. ((The department shall~~  
27 ~~develop a process to ensure that expenditures do not exceed available~~  
28 ~~funds and to prioritize access to funds when again available.))~~

29 (2) ~~((After June 30, 2002, in addition to the amounts that may be~~  
30 ~~obligated under subsection (1) of this section, the commissioner may~~  
31 ~~obligate up to thirty four million dollars for training benefits under~~  
32 ~~RCW 50.22.150 for individuals in the aerospace industry assigned the~~  
33 ~~standard industrial classification code "372" or the North American~~  
34 ~~industry classification system code "336411" whose claims are filed~~  
35 ~~before January 5, 2003. The funds provided in this subsection must be~~  
36 ~~fully obligated for training benefits for these individuals before the~~  
37 ~~funds provided in subsection (1) of this section may be obligated for~~

1 ~~training benefits for these individuals. Any amount of the funds~~  
2 ~~specified in this subsection that is not obligated as permitted may not~~  
3 ~~be carried forward to any future period.))~~ If the amount available for  
4 training benefits at any time is equal to or less than five million  
5 dollars, funds will no longer be obligated for individuals in RCW  
6 50.22.155(2)(a)(ii). If funds are exhausted, training benefits will  
7 continue to be obligated to dislocated workers only under RCW  
8 50.22.155(2)(a)(i). The following year's obligation for training  
9 benefits will be reduced by a corresponding amount.

10 **Sec. 11.** RCW 50.24.014 and 2009 c 566 s 2 are each amended to read  
11 as follows:

12 (1)(a) A separate and identifiable account to provide for the  
13 financing of special programs to assist the unemployed is established  
14 in the administrative contingency fund. All money in this account  
15 shall be expended solely for the purposes of this title and for no  
16 other purposes whatsoever. Contributions to this account shall accrue  
17 and become payable by each employer, except employers as described in  
18 RCW 50.44.010 and 50.44.030 who have properly elected to make payments  
19 in lieu of contributions, taxable local government employers as  
20 described in RCW 50.44.035, and those employers who are required to  
21 make payments in lieu of contributions, at a basic rate of two one-  
22 hundredths of one percent. The amount of wages subject to tax shall be  
23 determined under RCW 50.24.010.

24 (b) A separate and identifiable account is established in the  
25 administrative contingency fund for financing the employment security  
26 department's administrative costs under RCW 50.22.150 and 50.22.155 and  
27 the costs under RCW 50.22.150(11) and 50.22.155(~~(14)~~) (1)(m) and  
28 (2)(m). All money in this account shall be expended solely for the  
29 purposes of this title and for no other purposes whatsoever.  
30 Contributions to this account shall accrue and become payable by each  
31 employer, except employers as described in RCW 50.44.010 and 50.44.030  
32 who have properly elected to make payments in lieu of contributions,  
33 taxable local government employers as described in RCW 50.44.035, those  
34 employers who are required to make payments in lieu of contributions,  
35 those employers described under RCW 50.29.025(~~(1)(f)(ii)~~) (2)(d), and  
36 those qualified employers assigned rate class 20 or rate class 40, as  
37 applicable, under RCW 50.29.025, at a basic rate of one one-hundredth

1 of one percent. The amount of wages subject to tax shall be determined  
2 under RCW 50.24.010. Any amount of contributions payable under this  
3 subsection (1)(b) that exceeds the amount that would have been  
4 collected at a rate of four one-thousandths of one percent must be  
5 deposited in the account created in (a) of this subsection.

6 (2)(a) Contributions under this section shall become due and be  
7 paid by each employer under rules as the commissioner may prescribe,  
8 and shall not be deducted, in whole or in part, from the remuneration  
9 of individuals in the employ of the employer. Any deduction in  
10 violation of this section is unlawful.

11 (b) In the payment of any contributions under this section, a  
12 fractional part of a cent shall be disregarded unless it amounts to  
13 one-half cent or more, in which case it shall be increased to one cent.

14 (3) If the commissioner determines that federal funding has been  
15 increased to provide financing for the services specified in chapter  
16 50.62 RCW, the commissioner shall direct that collection of  
17 contributions under this section be terminated on the following January  
18 1st.

19 **Sec. 12.** RCW 50.04.075 and 1984 c 181 s 1 are each amended to read  
20 as follows:

21 (1) With respect to claims with an effective date prior to July 1,  
22 2012, "dislocated worker" means any individual who:

23 ~~((1))~~ (a) Has been terminated or received a notice of termination  
24 from employment;

25 ~~((2))~~ (b) Is eligible for or has exhausted entitlement to  
26 unemployment compensation benefits; and

27 ~~((3))~~ (c) Is unlikely to return to employment in the individual's  
28 principal occupation or previous industry because of a diminishing  
29 demand for their skills in that occupation or industry.

30 (2) With respect to claims with an effective date on or after July  
31 1, 2012, "dislocated worker" means any individual who:

32 (a) Has been involuntarily and indefinitely separated from  
33 employment as a result of a permanent reduction of operations at the  
34 individual's place of employment, or has separated from a declining  
35 occupation; and

36 (b) Is eligible for or has exhausted entitlement to unemployment  
37 compensation benefits.

1       **Sec. 13.** RCW 50.20.130 and 2010 c 8 s 13022 are each amended to  
2 read as follows:

3       (1) If an eligible individual is available for work for less than  
4 a full week, he or she shall be paid his or her weekly benefit amount  
5 reduced by one-seventh of such amount for each day that he or she is  
6 unavailable for work: PROVIDED, That if he or she is unavailable for  
7 work for three days or more of a week, he or she shall be considered  
8 unavailable for the entire week.

9       (2) Each eligible individual who is unemployed in any week shall be  
10 paid with respect to such week a benefit in an amount equal to his or  
11 her weekly benefit amount less:

12       (a) Seventy-five percent of that part of the remuneration (if any)  
13 payable to him or her with respect to such week which is in excess of  
14 five dollars; or

15       (b) For any weeks in which the individual is receiving training  
16 benefits as provided in RCW 50.22.155(2), half of that part of the  
17 remuneration (if any) payable to him or her with respect to such week  
18 which is in excess of five dollars. ((Such benefit))

19       (3) The benefits in this section, if not a multiple of one dollar,  
20 shall be reduced to the next lower multiple of one dollar.

21       **Sec. 14.** RCW 50.29.021 and 2010 c 25 s 1 are each amended to read  
22 as follows:

23       (1) This section applies to benefits charged to the experience  
24 rating accounts of employers for claims that have an effective date on  
25 or after January 4, 2004.

26       (2)(a) An experience rating account shall be established and  
27 maintained for each employer, except employers as described in RCW  
28 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
29 payments in lieu of contributions, taxable local government employers  
30 as described in RCW 50.44.035, and those employers who are required to  
31 make payments in lieu of contributions, based on existing records of  
32 the employment security department.

33       (b) Benefits paid to an eligible individual shall be charged to the  
34 experience rating accounts of each of such individual's employers  
35 during the individual's base year in the same ratio that the wages paid  
36 by each employer to the individual during the base year bear to the

1 wages paid by all employers to that individual during that base year,  
2 except as otherwise provided in this section.

3 (c) When the eligible individual's separating employer is a covered  
4 contribution paying base year employer, benefits paid to the eligible  
5 individual shall be charged to the experience rating account of only  
6 the individual's separating employer if the individual qualifies for  
7 benefits under:

8 (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became  
9 unemployed after having worked and earned wages in the bona fide work;  
10 or

11 (ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through  
12 (x).

13 (3) The legislature finds that certain benefit payments, in whole  
14 or in part, should not be charged to the experience rating accounts of  
15 employers except those employers described in RCW 50.44.010, 50.44.030,  
16 and 50.50.030 who have properly elected to make payments in lieu of  
17 contributions, taxable local government employers described in RCW  
18 50.44.035, and those employers who are required to make payments in  
19 lieu of contributions, as follows:

20 (a) Benefits paid to any individual later determined to be  
21 ineligible shall not be charged to the experience rating account of any  
22 contribution paying employer. However, when a benefit claim becomes  
23 invalid due to an amendment or adjustment of a report where the  
24 employer failed to report or inaccurately reported hours worked or  
25 remuneration paid, or both, all benefits paid will be charged to the  
26 experience rating account of the contribution paying employer or  
27 employers that originally filed the incomplete or inaccurate report or  
28 reports. An employer who reimburses the trust fund for benefits paid  
29 to workers and who fails to report or inaccurately reported hours  
30 worked or remuneration paid, or both, shall reimburse the trust fund  
31 for all benefits paid that are based on the originally filed incomplete  
32 or inaccurate report or reports.

33 (b) Benefits paid to an individual filing under the provisions of  
34 chapter 50.06 RCW shall not be charged to the experience rating account  
35 of any contribution paying employer only if:

36 (i) The individual files under RCW 50.06.020(1) after receiving  
37 crime victims' compensation for a disability resulting from a nonwork-  
38 related occurrence; or

1 (ii) The individual files under RCW 50.06.020(2).

2 (c) Benefits paid which represent the state's share of benefits  
3 payable as extended benefits defined under RCW 50.22.010(6) shall not  
4 be charged to the experience rating account of any contribution paying  
5 employer.

6 (d) In the case of individuals who requalify for benefits under RCW  
7 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
8 the disqualifying separation shall not be charged to the experience  
9 rating account of the contribution paying employer from whom that  
10 separation took place.

11 (e) Benefits paid to an individual who qualifies for benefits under  
12 RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as  
13 applicable, shall not be charged to the experience rating account of  
14 any contribution paying employer.

15 (f) With respect to claims with an effective date on or after the  
16 first Sunday following April 22, 2005, benefits paid that exceed the  
17 benefits that would have been paid if the weekly benefit amount for the  
18 claim had been determined as one percent of the total wages paid in the  
19 individual's base year shall not be charged to the experience rating  
20 account of any contribution paying employer. This subsection (3)(f)  
21 does not apply to the calculation of contribution rates under RCW  
22 50.29.025 for rate year 2010 and thereafter.

23 (g) The forty-five dollar increase paid as part of an individual's  
24 weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five  
25 dollar increase paid as part of an individual's weekly benefit amount  
26 as provided in section 1 of this act shall not be charged to the  
27 experience rating account of any contribution paying employer.

28 (h) With respect to claims where the minimum amount payable weekly  
29 is increased to one hundred fifty-five dollars pursuant to RCW  
30 50.20.1201(3), benefits paid that exceed the benefits that would have  
31 been paid if the minimum amount payable weekly had been calculated  
32 pursuant to RCW 50.20.120 shall not be charged to the experience rating  
33 account of any contribution paying employer.

34 (i) Upon approval of an individual's training benefits plan  
35 submitted in accordance with RCW 50.22.155(2), an individual is  
36 considered enrolled in training, and regular benefits beginning with  
37 the week of approval shall not be charged to the experience rating  
38 account of any contribution paying employer.

1       (j) Training benefits paid to an individual under RCW 50.22.155  
2 shall not be charged to the experience rating account of any  
3 contribution paying employer.

4       (4)(a) A contribution paying base year employer, not otherwise  
5 eligible for relief of charges for benefits under this section, may  
6 receive such relief if the benefit charges result from payment to an  
7 individual who:

8       (i) Last left the employ of such employer voluntarily for reasons  
9 not attributable to the employer;

10       (ii) Was discharged for misconduct or gross misconduct connected  
11 with his or her work not a result of inability to meet the minimum job  
12 requirements;

13       (iii) Is unemployed as a result of closure or severe curtailment of  
14 operation at the employer's plant, building, worksite, or other  
15 facility. This closure must be for reasons directly attributable to a  
16 catastrophic occurrence such as fire, flood, or other natural disaster;

17       (iv) Continues to be employed on a regularly scheduled permanent  
18 part-time basis by a base year employer and who at some time during the  
19 base year was concurrently employed and subsequently separated from at  
20 least one other base year employer. Benefit charge relief ceases when  
21 the employment relationship between the employer requesting relief and  
22 the claimant is terminated. This subsection does not apply to shared  
23 work employers under chapter 50.06 RCW; or

24       (v) Was hired to replace an employee who is a member of the  
25 military reserves or National Guard and was called to federal active  
26 military service by the president of the United States and is  
27 subsequently laid off when that employee is reemployed by their  
28 employer upon release from active duty within the time provided for  
29 reemployment in RCW 73.16.035.

30       (b) The employer requesting relief of charges under this subsection  
31 must request relief in writing within thirty days following mailing to  
32 the last known address of the notification of the valid initial  
33 determination of such claim, stating the date and reason for the  
34 separation or the circumstances of continued employment. The  
35 commissioner, upon investigation of the request, shall determine  
36 whether relief should be granted.

1       **Sec. 15.** RCW 50.22.157 and 2009 c 3 s 6 are each amended to read  
2 as follows:

3       (1) The employment security department shall report to the  
4 appropriate committees of the legislature by December 1, 2009, and  
5 every year thereafter, on the status of the training benefits program  
6 and the resulting outcomes. The report shall include a survey based  
7 assessment of the employment outcomes for program participants within  
8 the previous three years. The department shall also include in its  
9 report:

10       ~~((1))~~ (a) A demographic analysis of participants in the training  
11 benefits program under this section including the number of claimants  
12 per North American industry classification system code and the gender,  
13 race, age, and geographic representation of participants;

14       ~~((2))~~ (b) The duration of training benefits claimed per claimant;

15       ~~((3))~~ (c) An analysis of the training provided to participants  
16 including the occupational category supported by the training, whether  
17 the training received would lead to employment in a high demand  
18 occupation, whether a degree or certificate is required in that  
19 occupational category to obtain employment, those participants who  
20 complete training in relationship to those that do not, the number of  
21 participants who take courses in basic language, reading, or writing  
22 skills to improve their employability, and the reasons for  
23 noncompletion of approved training programs;

24       ~~((4))~~ (d) The employment and wage history of participants,  
25 including the pretraining and posttraining wage, the type of work  
26 participants were engaged in prior to unemployment, and whether those  
27 participating in training return to their previous employer (~~after~~  
28 training terminates)) within two years of receiving training, or are  
29 employed in a field for which they were retrained; (~~and~~

30       ~~(5))~~ (e) An identification and analysis of administrative costs at  
31 both the local and state level for administering this program;

32       (f) A projection of program costs for the next fiscal year; and

33       (g) The total funds obligated for training benefits, and the net  
34 balance remaining to be obligated subject to the restrictions of RCW  
35 50.22.140.

36       (2) The joint legislative audit and review committee is directed to  
37 conduct a thorough review and evaluation of the training benefits  
38 program on the following schedule:

1 (a) Three years after the implementation of the training benefits  
2 portion of this act and every five years thereafter; and

3 (b) In any year in which the employment security department is  
4 required to suspend obligation of training benefits funds pursuant to  
5 RCW 50.22.140(2), or total expenditures exceed twenty-five million  
6 dollars.

7 (3) As part of the review conducted under subsection (2) of this  
8 section, the joint legislative audit and review committee shall:

9 (a) Assess whether the program is complying with legislative  
10 intent;

11 (b) Assess whether the program is effective;

12 (c) Assess whether the program is operating in an efficient and  
13 economical manner which results in optimum performance; and

14 (d) Make recommendations on how to improve the training benefits  
15 program.

16 (4) After a review of the training benefits program has been  
17 completed by the joint legislative audit and review committee, the  
18 appropriate committees of the legislature must hold a public hearing on  
19 the review and consider potential changes to improve the program.

20 **PART IV**  
21 **Social Tax**

22 **Sec. 16.** RCW 50.29.025 and 2010 c 72 s 1 are each amended to read  
23 as follows:

24 (1) For contributions assessed for rate years 2005 through 2009,  
25 the contribution rate for each employer subject to contributions under  
26 RCW 50.24.010 shall be the sum of the array calculation factor rate and  
27 the graduated social cost factor rate determined under this subsection,  
28 and the solvency surcharge determined under RCW 50.29.041, if any.

29 (a) The array calculation factor rate shall be determined as  
30 follows:

31 (i) An array shall be prepared, listing all qualified employers in  
32 ascending order of their benefit ratios. The array shall show for each  
33 qualified employer: (A) Identification number; (B) benefit ratio; and  
34 (C) taxable payrolls for the four consecutive calendar quarters  
35 immediately preceding the computation date and reported to the  
36 employment security department by the cut-off date.

1 (ii) Each employer in the array shall be assigned to one of forty  
 2 rate classes according to his or her benefit ratio as follows, and,  
 3 except as provided in RCW 50.29.026, the array calculation factor rate  
 4 for each employer in the array shall be the rate specified in the rate  
 5 class to which the employer has been assigned:

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
6		0.000001	1	0.00
7				
8		0.001250	2	0.13
9	0.000001			
10	0.001250	0.002500	3	0.25
11	0.002500	0.003750	4	0.38
12	0.003750	0.005000	5	0.50
13	0.005000	0.006250	6	0.63
14	0.006250	0.007500	7	0.75
15	0.007500	0.008750	8	0.88
16	0.008750	0.010000	9	1.00
17	0.010000	0.011250	10	1.15
18	0.011250	0.012500	11	1.30
19	0.012500	0.013750	12	1.45
20	0.013750	0.015000	13	1.60
21	0.015000	0.016250	14	1.75
22	0.016250	0.017500	15	1.90
23	0.017500	0.018750	16	2.05
24	0.018750	0.020000	17	2.20
25	0.020000	0.021250	18	2.35
26	0.021250	0.022500	19	2.50
27	0.022500	0.023750	20	2.65
28	0.023750	0.025000	21	2.80
29	0.025000	0.026250	22	2.95
30	0.026250	0.027500	23	3.10
31	0.027500	0.028750	24	3.25
32	0.028750	0.030000	25	3.40
33	0.030000	0.031250	26	3.55
34	0.031250	0.032500	27	3.70
35	0.032500	0.033750	28	3.85
36	0.033750	0.035000	29	4.00

1	0.035000	0.036250	30	4.15
2	0.036250	0.037500	31	4.30
3	0.037500	0.040000	32	4.45
4	0.040000	0.042500	33	4.60
5	0.042500	0.045000	34	4.75
6	0.045000	0.047500	35	4.90
7	0.047500	0.050000	36	5.05
8	0.050000	0.052500	37	5.20
9	0.052500	0.055000	38	5.30
10	0.055000	0.057500	39	5.35
11	0.057500		40	5.40

12 (b) The graduated social cost factor rate shall be determined as  
13 follows:

14 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,  
15 the commissioner shall calculate the flat social cost factor for a rate  
16 year by dividing the total social cost by the total taxable payroll.  
17 The division shall be carried to the second decimal place with the  
18 remaining fraction disregarded unless it amounts to five hundredths or  
19 more, in which case the second decimal place shall be rounded to the  
20 next higher digit. The flat social cost factor shall be expressed as  
21 a percentage.

22 (B) If, on the cut-off date, the balance in the unemployment  
23 compensation fund is determined by the commissioner to be an amount  
24 that will provide more than ten months of unemployment benefits, the  
25 commissioner shall calculate the flat social cost factor for the rate  
26 year immediately following the cut-off date by reducing the total  
27 social cost by the dollar amount that represents the number of months  
28 for which the balance in the unemployment compensation fund on the cut-  
29 off date will provide benefits above ten months and dividing the result  
30 by the total taxable payroll. However, the calculation under this  
31 subsection (1)(b)(i)(B) for a rate year may not result in a flat social  
32 cost factor that is more than four-tenths lower than the calculation  
33 under (b)(i)(A) of this subsection for that rate year.

34 For the purposes of this subsection, the commissioner shall  
35 determine the number of months of unemployment benefits in the  
36 unemployment compensation fund using the benefit cost rate for the  
37 average of the three highest calendar benefit cost rates in the twenty

1 consecutive completed calendar years immediately preceding the cut-off  
2 date or a period of consecutive calendar years immediately preceding  
3 the cut-off date that includes three recessions, if longer.

4 (C) The minimum flat social cost factor calculated under this  
5 subsection (1)(b) shall be six-tenths of one percent, except that if  
6 the balance in the unemployment compensation fund is determined by the  
7 commissioner to be an amount that will provide:

8 (I) At least twelve months but less than fourteen months of  
9 unemployment benefits, the minimum shall be five-tenths of one percent;  
10 or

11 (II) At least fourteen months of unemployment benefits, the minimum  
12 shall be five-tenths of one percent, except that, for employers in rate  
13 class 1, the minimum shall be forty-five hundredths of one percent.

14 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the  
15 graduated social cost factor rate for each employer in the array is the  
16 flat social cost factor multiplied by the percentage specified as  
17 follows for the rate class to which the employer has been assigned in  
18 (a)(ii) of this subsection, except that the sum of an employer's array  
19 calculation factor rate and the graduated social cost factor rate may  
20 not exceed six and five-tenths percent or, for employers whose North  
21 American industry classification system code is within "111," "112,"  
22 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six  
23 percent through rate year 2007 and may not exceed five and seven-tenths  
24 percent for rate years 2008 and 2009:

25 (I) Rate class 1 - 78 percent;

26 (II) Rate class 2 - 82 percent;

27 (III) Rate class 3 - 86 percent;

28 (IV) Rate class 4 - 90 percent;

29 (V) Rate class 5 - 94 percent;

30 (VI) Rate class 6 - 98 percent;

31 (VII) Rate class 7 - 102 percent;

32 (VIII) Rate class 8 - 106 percent;

33 (IX) Rate class 9 - 110 percent;

34 (X) Rate class 10 - 114 percent;

35 (XI) Rate class 11 - 118 percent; and

36 (XII) Rate classes 12 through 40 - 120 percent.

37 (B) For contributions assessed beginning July 1, 2005, through  
38 December 31, 2007, for employers whose North American industry

1 classification system code is "111," "112," "1141," "115," "3114,"  
2 "3117," "42448," or "49312," the graduated social cost factor rate is  
3 zero.

4 (iii) For the purposes of this section:

5 (A) "Total social cost" means the amount calculated by subtracting  
6 the array calculation factor contributions paid by all employers with  
7 respect to the four consecutive calendar quarters immediately preceding  
8 the computation date and paid to the employment security department by  
9 the cut-off date from the total unemployment benefits paid to claimants  
10 in the same four consecutive calendar quarters. To calculate the flat  
11 social cost factor for rate year 2005, the commissioner shall calculate  
12 the total social cost using the array calculation factor contributions  
13 that would have been required to be paid by all employers in the  
14 calculation period if (a) of this subsection had been in effect for the  
15 relevant period. To calculate the flat social cost factor for rate  
16 years 2010 and 2011, the forty-five dollar increase paid as part of an  
17 individual's weekly benefit amount as provided in RCW 50.20.1201 shall  
18 not be considered for purposes of calculating the total unemployment  
19 benefits paid to claimants in the four consecutive calendar quarters  
20 immediately preceding the computation date.

21 (B) "Total taxable payroll" means the total amount of wages subject  
22 to tax, as determined under RCW 50.24.010, for all employers in the  
23 four consecutive calendar quarters immediately preceding the  
24 computation date and reported to the employment security department by  
25 the cut-off date.

26 (c) For employers who do not meet the definition of "qualified  
27 employer" by reason of failure to pay contributions when due:

28 (i) The array calculation factor rate shall be two-tenths higher  
29 than that in rate class 40, except employers who have an approved  
30 agency-deferred payment contract by September 30th of the previous rate  
31 year. If any employer with an approved agency-deferred payment  
32 contract fails to make any one of the succeeding deferred payments or  
33 fails to submit any succeeding tax report and payment in a timely  
34 manner, the employer's tax rate shall immediately revert to an array  
35 calculation factor rate two-tenths higher than that in rate class 40;  
36 and

37 (ii) The social cost factor rate shall be the social cost factor  
38 rate assigned to rate class 40 under (b)(ii) of this subsection.

1 (d) For all other employers not qualified to be in the array:

2 (i) For rate years 2005, 2006, and 2007:

3 (A) The array calculation factor rate shall be a rate equal to the  
4 average industry array calculation factor rate as determined by the  
5 commissioner, plus fifteen percent of that amount; however, the rate  
6 may not be less than one percent or more than the array calculation  
7 factor rate in rate class 40; and

8 (B) The social cost factor rate shall be a rate equal to the  
9 average industry social cost factor rate as determined by the  
10 commissioner, plus fifteen percent of that amount, but not more than  
11 the social cost factor rate assigned to rate class 40 under (b)(ii) of  
12 this subsection.

13 (ii) For contributions assessed for rate years 2008 and 2009:

14 (A) The array calculation factor rate shall be a rate equal to the  
15 average industry array calculation factor rate as determined by the  
16 commissioner, multiplied by the history factor, but not less than one  
17 percent or more than the array calculation factor rate in rate class  
18 40;

19 (B) The social cost factor rate shall be a rate equal to the  
20 average industry social cost factor rate as determined by the  
21 commissioner, multiplied by the history factor, but not more than the  
22 social cost factor rate assigned to rate class 40 under (b)(ii) of this  
23 subsection; and

24 (C) The history factor shall be based on the total amounts of  
25 benefits charged and contributions paid in the three fiscal years  
26 ending prior to the computation date by employers not qualified to be  
27 in the array, other than employers in (c) of this subsection, who were  
28 first subject to contributions in the calendar year ending three years  
29 prior to the computation date. The commissioner shall calculate the  
30 history ratio by dividing the total amount of benefits charged by the  
31 total amount of contributions paid in this three-year period by these  
32 employers. The division shall be carried to the second decimal place  
33 with the remaining fraction disregarded unless it amounts to five  
34 one-hundredths or more, in which case the second decimal place shall be  
35 rounded to the next higher digit. The commissioner shall determine the  
36 history factor according to the history ratio as follows:

1  
2  
3  
4  
5  
6  
7  
8

History History  
Ratio Factor  
(percent)

	At least	Less than	
(I)		.95	90
(II)	.95	1.05	100
(III)	1.05		115

9 (2) For contributions assessed in rate year 2010 and thereafter,  
10 the contribution rate for each employer subject to contributions under  
11 RCW 50.24.010 shall be the sum of the array calculation factor rate and  
12 the graduated social cost factor rate determined under this subsection,  
13 and the solvency surcharge determined under RCW 50.29.041, if any.

14 (a) The array calculation factor rate shall be determined as  
15 follows:

16 (i) An array shall be prepared, listing all qualified employers in  
17 ascending order of their benefit ratios. The array shall show for each  
18 qualified employer: (A) Identification number; (B) benefit ratio; and  
19 (C) taxable payrolls for the four consecutive calendar quarters  
20 immediately preceding the computation date and reported to the  
21 employment security department by the cut-off date.

22 (ii) Each employer in the array shall be assigned to one of forty  
23 rate classes according to his or her benefit ratio as follows, and,  
24 except as provided in RCW 50.29.026, the array calculation factor rate  
25 for each employer in the array shall be the rate specified in the rate  
26 class to which the employer has been assigned:

Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
	0.000001	1	0.00
0.000001	0.001250	2	0.11
0.001250	0.002500	3	0.22
0.002500	0.003750	4	0.33
0.003750	0.005000	5	0.43

27  
28  
29  
30  
31  
32  
33

1	0.005000	0.006250	6	0.54
2	0.006250	0.007500	7	0.65
3	0.007500	0.008750	8	0.76
4	0.008750	0.010000	9	0.88
5	0.010000	0.011250	10	1.01
6	0.011250	0.012500	11	1.14
7	0.012500	0.013750	12	1.28
8	0.013750	0.015000	13	1.41
9	0.015000	0.016250	14	1.54
10	0.016250	0.017500	15	1.67
11	0.017500	0.018750	16	1.80
12	0.018750	0.020000	17	1.94
13	0.020000	0.021250	18	2.07
14	0.021250	0.022500	19	2.20
15	0.022500	0.023750	20	2.38
16	0.023750	0.025000	21	2.50
17	0.025000	0.026250	22	2.63
18	0.026250	0.027500	23	2.75
19	0.027500	0.028750	24	2.88
20	0.028750	0.030000	25	3.00
21	0.030000	0.031250	26	3.13
22	0.031250	0.032500	27	3.25
23	0.032500	0.033750	28	3.38
24	0.033750	0.035000	29	3.50
25	0.035000	0.036250	30	3.63
26	0.036250	0.037500	31	3.75
27	0.037500	0.040000	32	4.00
28	0.040000	0.042500	33	4.25
29	0.042500	0.045000	34	4.50
30	0.045000	0.047500	35	4.75
31	0.047500	0.050000	36	5.00
32	0.050000	0.052500	37	5.15
33	0.052500	0.055000	38	5.25
34	0.055000	0.057500	39	5.30
35	0.057500		40	5.40

36 (b) The graduated social cost factor rate shall be determined as  
37 follows:

1 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,  
2 the commissioner shall calculate the flat social cost factor for a rate  
3 year by dividing the total social cost by the total taxable payroll.  
4 The division shall be carried to the second decimal place with the  
5 remaining fraction disregarded unless it amounts to five hundredths or  
6 more, in which case the second decimal place shall be rounded to the  
7 next higher digit. The flat social cost factor shall be expressed as  
8 a percentage.

9 (B)(I) If, on the cut-off date, the balance in the unemployment  
10 compensation fund is determined by the commissioner to be an amount  
11 that will provide more than ten months of unemployment benefits, the  
12 commissioner shall calculate the flat social cost factor for the rate  
13 year immediately following the cut-off date by reducing the total  
14 social cost by the dollar amount that represents the number of months  
15 for which the balance in the unemployment compensation fund on the cut-  
16 off date will provide benefits above ten months and dividing the result  
17 by the total taxable payroll. However, the calculation under this  
18 subsection (2)(b)(i)(B) for a rate year may not result in a flat social  
19 cost factor that is more than four-tenths lower than the calculation  
20 under (b)(i)(A) of this subsection for that rate year. For rate year  
21 2011 and thereafter, the calculation may not result in a flat social  
22 cost factor that is more than one and twenty-two one-hundredths  
23 percent.

24 (II) If, on the cut-off date, the balance in the unemployment  
25 compensation fund is determined by the commissioner to be an amount  
26 that will provide ten months of unemployment benefits or less, the flat  
27 social cost factor for the rate year immediately following the cut-off  
28 date may not increase by more than fifty percent over the previous rate  
29 year or may not exceed one and twenty-two one-hundredths percent,  
30 whichever is greater.

31 (III) For the purposes of this subsection (2)(b), the commissioner  
32 shall determine the number of months of unemployment benefits in the  
33 unemployment compensation fund using the benefit cost rate for the  
34 average of the three highest calendar benefit cost rates in the twenty  
35 consecutive completed calendar years immediately preceding the cut-off  
36 date or a period of consecutive calendar years immediately preceding  
37 the cut-off date that includes three recessions, if longer. The  
38 twenty-five dollar increase paid as part of an individual's weekly

1 benefit amount as provided in section 1 of this act shall not be  
2 considered in calculating the benefit cost rate when determining the  
3 number of months of unemployment benefits in the unemployment  
4 compensation fund.

5 (C) The minimum flat social cost factor calculated under this  
6 subsection (2)(b) shall be six-tenths of one percent, except that if  
7 the balance in the unemployment compensation fund is determined by the  
8 commissioner to be an amount that will provide:

9 (I) At least ten months but less than eleven months of unemployment  
10 benefits, the minimum shall be five-tenths of one percent; or

11 (II) At least eleven months but less than twelve months of  
12 unemployment benefits, the minimum shall be forty-five hundredths of  
13 one percent; or

14 (III) At least twelve months but less than thirteen months of  
15 unemployment benefits, the minimum shall be four-tenths of one percent;  
16 or

17 (IV) At least thirteen months but less than fifteen months of  
18 unemployment benefits, the minimum shall be thirty-five hundredths of  
19 one percent; or

20 (V) At least fifteen months but less than seventeen months of  
21 unemployment benefits, the minimum shall be twenty-five hundredths of  
22 one percent; or

23 (VI) At least seventeen months but less than eighteen months of  
24 unemployment benefits, the minimum shall be fifteen hundredths of one  
25 percent; or

26 (VII) At least eighteen months of unemployment benefits, the  
27 minimum shall be fifteen hundredths of one percent through rate year  
28 2011 and shall be zero thereafter.

29 (ii)(A) For rate years through 2010, the graduated social cost  
30 factor rate for each employer in the array is the flat social cost  
31 factor multiplied by the percentage specified as follows for the rate  
32 class to which the employer has been assigned in (a)(ii) of this  
33 subsection, except that the sum of an employer's array calculation  
34 factor rate and the graduated social cost factor rate may not exceed  
35 six percent or, for employers whose North American industry  
36 classification system code is within "111," "112," "1141," "115,"  
37 "3114," "3117," "42448," or "49312," may not exceed five and four-  
38 tenths percent:

- 1       ~~((A))~~ (I) Rate class 1 - 78 percent;
- 2       ~~((B))~~ (II) Rate class 2 - 82 percent;
- 3       ~~((C))~~ (III) Rate class 3 - 86 percent;
- 4       ~~((D))~~ (IV) Rate class 4 - 90 percent;
- 5       ~~((E))~~ (V) Rate class 5 - 94 percent;
- 6       ~~((F))~~ (VI) Rate class 6 - 98 percent;
- 7       ~~((G))~~ (VII) Rate class 7 - 102 percent;
- 8       ~~((H))~~ (VIII) Rate class 8 - 106 percent;
- 9       ~~((I))~~ (IX) Rate class 9 - 110 percent;
- 10       ~~((J))~~ (X) Rate class 10 - 114 percent;
- 11       ~~((K))~~ (XI) Rate class 11 - 118 percent; and
- 12       ~~((L))~~ (XII) Rate classes 12 through 40 - 120 percent.

13       (B) For rate years 2011 and thereafter, the graduated social cost  
14 factor rate for each employer in the array is the flat social cost  
15 factor multiplied by the percentage specified as follows for the rate  
16 class to which the employer has been assigned in (a)(ii) of this  
17 subsection, except that the sum of an employer's array calculation  
18 factor rate and the graduated social cost factor rate may not exceed  
19 six percent or, for employers whose North American industry  
20 classification system code is within "111," "112," "1141," "115,"  
21 "3114," "3117," "42448," or "49312," may not exceed five and four-  
22 tenths percent:

- 23       (I) Rate class 1 - 40 percent;
- 24       (II) Rate class 2 - 44 percent;
- 25       (III) Rate class 3 - 48 percent;
- 26       (IV) Rate class 4 - 52 percent;
- 27       (V) Rate class 5 - 56 percent;
- 28       (VI) Rate class 6 - 60 percent;
- 29       (VII) Rate class 7 - 64 percent;
- 30       (VIII) Rate class 8 - 68 percent;
- 31       (IX) Rate class 9 - 72 percent;
- 32       (X) Rate class 10 - 76 percent;
- 33       (XI) Rate class 11 - 80 percent;
- 34       (XII) Rate class 12 - 84 percent;
- 35       (XIII) Rate class 13 - 88 percent;
- 36       (XIV) Rate class 14 - 92 percent;
- 37       (XV) Rate class 15 - 96 percent;
- 38       (XVI) Rate class 16 - 100 percent;

1 (XVII) Rate class 17 - 104 percent;

2 (XVIII) Rate class 18 - 108 percent;

3 (XIX) Rate class 19 - 112 percent;

4 (XX) Rate class 20 - 116 percent; and

5 (XXI) Rate classes 21 through 40 - 120 percent.

6 (iii) For the purposes of this section:

7 (A) "Total social cost" means the amount calculated by subtracting  
8 the array calculation factor contributions paid by all employers with  
9 respect to the four consecutive calendar quarters immediately preceding  
10 the computation date and paid to the employment security department by  
11 the cut-off date from the total unemployment benefits paid to claimants  
12 in the same four consecutive calendar quarters. To calculate the flat  
13 social cost factor for rate years 2012 and 2013, the twenty-five dollar  
14 increase paid as part of an individual's weekly benefit amount as  
15 provided in section 1 of this act shall not be considered for purposes  
16 of calculating the total unemployment benefits paid to claimants in the  
17 four consecutive calendar quarters immediately preceding the  
18 computation date.

19 (B) "Total taxable payroll" means the total amount of wages subject  
20 to tax, as determined under RCW 50.24.010, for all employers in the  
21 four consecutive calendar quarters immediately preceding the  
22 computation date and reported to the employment security department by  
23 the cut-off date.

24 (c) For employers who do not meet the definition of "qualified  
25 employer" by reason of failure to pay contributions when due:

26 (i) For rate years through 2010:

27 (A) The array calculation factor rate shall be two-tenths higher  
28 than that in rate class 40, except employers who have an approved  
29 agency-deferred payment contract by September 30th of the previous rate  
30 year. If any employer with an approved agency-deferred payment  
31 contract fails to make any one of the succeeding deferred payments or  
32 fails to submit any succeeding tax report and payment in a timely  
33 manner, the employer's tax rate shall immediately revert to an array  
34 calculation factor rate two-tenths higher than that in rate class 40;  
35 and

36 (B) The social cost factor rate shall be the social cost factor  
37 rate assigned to rate class 40 under (b)(ii)(A) of this subsection.

38 (ii) For rate years 2011 and thereafter:

1 (A)(I) For an employer who does not enter into an approved agency-  
2 deferred payment contract as described in (c)(ii)(A)(II) or (III) of  
3 this subsection, the array calculation factor rate shall be the rate it  
4 would have been if the employer had not been delinquent in payment plus  
5 an additional one percent or, if the employer is delinquent in payment  
6 for a second or more consecutive year, an additional two percent;

7 (II) For an employer who enters an approved agency-deferred payment  
8 contract by September 30th of the previous rate year, the array  
9 calculation factor rate shall be the rate it would have been if the  
10 employer had not been delinquent in payment;

11 (III) For an employer who enters an approved agency-deferred  
12 payment contract after September 30th of the previous rate year, but  
13 within thirty days of the date the department sent its first tax rate  
14 notice, the array calculation factor rate shall be the rate it would  
15 have been had the employer not been delinquent in payment plus an  
16 additional one-half of one percent or, if the employer is delinquent in  
17 payment for a second or more consecutive year, an additional one and  
18 one-half percent;

19 (IV) For an employer who enters an approved agency-deferred payment  
20 contract as described in (c)(ii)(A)(II) or (III) of this subsection,  
21 but who fails to make any one of the succeeding deferred payments or  
22 fails to submit any succeeding tax report and payment in a timely  
23 manner, the array calculation factor rate shall immediately revert to  
24 the applicable array calculation factor rate under (c)(ii)(A)(I) of  
25 this subsection; and

26 (B) The social cost factor rate shall be the social cost factor  
27 rate assigned to rate class 40 under (b)(ii)(B) of this subsection.

28 (d) For all other employers not qualified to be in the array:

29 (i) The array calculation factor rate shall be a rate equal to the  
30 average industry array calculation factor rate as determined by the  
31 commissioner, multiplied by the history factor, but not less than one  
32 percent or more than the array calculation factor rate in rate class  
33 40;

34 (ii) The social cost factor rate shall be a rate equal to the  
35 average industry social cost factor rate as determined by the  
36 commissioner, multiplied by the history factor, but not more than the  
37 social cost factor rate assigned to rate class 40 for the relevant year  
38 under (b)(ii) (A) or (B) of this subsection; and

1 (iii) The history factor shall be based on the total amounts of  
 2 benefits charged and contributions paid in the three fiscal years  
 3 ending prior to the computation date by employers not qualified to be  
 4 in the array, other than employers in (c) of this subsection, who were  
 5 first subject to contributions in the calendar year ending three years  
 6 prior to the computation date. The commissioner shall calculate the  
 7 history ratio by dividing the total amount of benefits charged by the  
 8 total amount of contributions paid in this three-year period by these  
 9 employers. The division shall be carried to the second decimal place  
 10 with the remaining fraction disregarded unless it amounts to five  
 11 one-hundredths or more, in which case the second decimal place shall be  
 12 rounded to the next higher digit. The commissioner shall determine the  
 13 history factor according to the history ratio as follows:

14

	History Ratio		History Factor (percent)
	At least	Less than	
15 (A)		.95	90
16 (B)	.95	1.05	100
17 (C)	1.05		115

18  
 19  
 20  
 21  
 22 (3) Assignment of employers by the commissioner to industrial  
 23 classification, for purposes of this section, shall be in accordance  
 24 with established classification practices found in the North American  
 25 industry classification system code.

26 **PART V**  
 27 **Miscellaneous**

28 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.215  
 29 RCW to read as follows:

30 For the working connections child care program, the department  
 31 shall not count the twenty-five dollar increase paid as part of an  
 32 individual's weekly benefit amount as provided in section 1 of this act  
 33 when determining a consumer's income eligibility and copayment.

1        NEW SECTION.    **Sec. 18.**    A new section is added to chapter 70.47 RCW  
2 to read as follows:

3        The administrator shall not count the twenty-five dollar increase  
4 paid as part of an individual's weekly benefit amount as provided in  
5 section 1 of this act when determining an individual's gross family  
6 income, eligibility, and premium share.

7        NEW SECTION.    **Sec. 19.**    A new section is added to chapter 74.09 RCW  
8 to read as follows:

9        For apple health for kids, the department shall not count the  
10 twenty-five dollar increase paid as part of an individual's weekly  
11 benefit amount as provided in section 1 of this act when determining  
12 family income, eligibility, and payment levels.

13        NEW SECTION.    **Sec. 20.**    If any part of this act is found to be in  
14 conflict with federal requirements that are a prescribed condition to  
15 the allocation of federal funds to the state or the eligibility of  
16 employers in this state for federal unemployment tax credits, the  
17 conflicting part of this act is inoperative solely to the extent of the  
18 conflict, and the finding or determination does not affect the  
19 operation of the remainder of this act. Rules adopted under this act  
20 must meet federal requirements that are a necessary condition to the  
21 receipt of federal funds by the state or the granting of federal  
22 unemployment tax credits to employers in this state.

23        NEW SECTION.    **Sec. 21.**    In determining under section 20 of this act  
24 which if any part of this act is in conflict with federal requirements  
25 that are a prescribed condition to the allocation of federal funds to  
26 the state or the eligibility of employers in the state for federal  
27 unemployment tax credits, the commissioner of the Washington state  
28 employment security department shall have full and complete authority  
29 and discretion to determine the extent of the conflict and to determine  
30 which provisions of this act shall be inoperative and which shall  
31 remain in effect in order to remedy the conflict with federal  
32 requirements.

33        NEW SECTION.    **Sec. 22.**    If any provision of this act or its

1 application to any person or circumstance is held invalid, the  
2 remainder of the act or the application of the provision to other  
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 23.** Sections 3 and 6 of this act expire July 1,  
5 2012, unless the United States department of labor determines by  
6 October 1, 2011, that this act does not meet the requirements of  
7 section 2003 of the federal American recovery and reinvestment act of  
8 2009 for unemployment insurance modernization incentive funding.

9 NEW SECTION. **Sec. 24.** Sections 7 through 15 of this act take  
10 effect July 1, 2012, unless the United States department of labor  
11 determines by October 1, 2011, that this act does not meet the  
12 requirements of section 2003 of the federal American recovery and  
13 reinvestment act of 2009 for unemployment insurance modernization  
14 incentive funding.

15 NEW SECTION. **Sec. 25.** The employment security department must  
16 provide notice of the expiration date of sections 3 and 6 of this act  
17 and the effective date of sections 7 through 15 of this act to affected  
18 parties, the chief clerk of the house of representatives, the secretary  
19 of the senate, the office of the code reviser, and others as deemed  
20 appropriate by the department.

21 NEW SECTION. **Sec. 26.** Sections 1 through 6 and 16 through 21 of  
22 this act are necessary for the immediate preservation of the public  
23 peace, health, or safety, or support of the state government and its  
24 existing public institutions, and take effect immediately.

Passed by the House February 9, 2011.

Passed by the Senate February 11, 2011.

Approved by the Governor February 11, 2011.

Filed in Office of Secretary of State February 14, 2011.